

Comments Before the California Air Resources Board
on
**Proposed Airborne Toxic Control Measures for
Transport Refrigeration Units**

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CTA's Position on Current Rule

- CARB's authority to retrofit TRU's is preempted by state law and the federal Clean Air Act
- CARB lacks authority over interstate trucks
- Cost analysis incomplete due to technology uncertainties
- The TRU proposal is cost prohibitive to the industry

Regulatory Authority

- CARB proposal requires new engine purchases
- CARB lacks authority to retrofit and re-engine TRU's. The authority needed will require changing:
 - 1) State law (H&S Code)
 - 2) Federal law (Clean Air Act)
 - 3) Commerce Clause, US Constitution

Interstate Commerce Issues

- CTA supports regulatory parity among states
- CARB does not have the authority to regulate out-of-state vehicles
 - CARB would need to seek legal authority in the courts
 - Out-of-state trucks hauling in CA outnumber intrastate trucks by more than a 3 to 1 margin
 - U.S. Supreme Court: "State requirements that unduly burden interstate commerce violate the Commerce Clause"
- This is a single-state regulation

Retrofit Issues

- CARB staff identifies TRU retrofit as the most cost effective way to comply
 - Devices have not been verified by CARB nor have they been demonstrated to work in TRU's
 - Actual cost is questionable, since devices are not market-ready
- Warranty requirements for retrofit devices must be fully addressed by CARB

Cost Issues

- CARB staff estimates 80% of the affected industry is made up of small businesses
 - Not likely to turn over refrigerated trailers as regularly as large operations
- CARB staff cites cost per TRU in 2008 at \$2000 to \$20,000 per unit
 - Availability of retrofit is questionable
 - Cost analysis should not include technology that isn't ready

Conclusion

- TRU regulation change the ownership requirements of trailers already in use
- CARB does not have legal authority to mandate retrofit and cannot regulate interstate trucks
- CARB cost analysis is incomplete
- TRU regulation should be postponed until the most cost effective technology is ready and verified for use